

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>RICHARD A. DOTTERER</b>	:	<b>CIVIL ACTION</b>
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	<b>NO. 13-06903</b>
	:	
<b>THOMAS PINTO, ET AL.,</b>	:	
<b>Defendants.</b>	:	

**ORDER**

**AND NOW**, this 10<sup>th</sup> day of February, 2014, upon consideration of Defendants Borough of Catasauqua, Kim Moyer, and Thomas Pinto's motion to dismiss (Doc. No. 8), Defendants Borough of North Catasauqua, Douglas F. Kish, and Rebecca Saborsky's motion to dismiss (Doc. No. 9) and all responses thereto, it is hereby **ORDERED** that the defendants' motions (Doc. No. 8 and 9) are **GRANTED IN PART AND DENIED IN PART** as follows:

1. All references to the Eighth Amendment as a basis for relief are **STRIKEN** from the plaintiff's complaint;<sup>1</sup> and
2. Defendants' motions to dismiss as to the remaining claims are **DENIED**.

BY THE COURT:

/s/Lawrence F. Stengel \_\_\_\_\_  
LAWRENCE F. STENGEL, J.

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<sup>1</sup> The defendants have not moved to strike, only to dismiss. Given the organization of the complaint, no single count can be dismissed since none are brought under the Eighth Amendment alone. For this reason, I am striking those parts pertaining to the Eighth Amendment *sua sponte*, since it is clear that it is legally inapplicable. See Fed. R. Civ. P. 12(f).